

REMARKS:

Claims 16 and 18 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 4,872,106 (hereinafter “Slater”) in view of non-patent reference titled “Fault-Tolerant Disk Storage and File Systems Using Reflective Memory” (hereinafter “System Sciences Proceedings”). Reconsideration of the rejections and allowance of the claims in view of the following remarks is respectfully requested.

M.P.E.P. §2143.03 provides that to establish *prima facie* obviousness of a claimed invention, all the claims limitations must be taught or suggested by the prior art. All words in a claim must be considered for judging the patentability of the claim against the prior art. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending there from is nonobvious.

It is noted that System Sciences Proceedings expressly states as a design objective a “full utilization of system hardware, no standby modules”. See System Sciences Proceedings at page 106, bullet no. 6, of section 1.4 titled “Design Objectives”. (Underlining added by Applicant). Slater, on the other hand, expressly describes use of a primary data processor and a back-up data processor. See Slater, first five lines of Summary of the Invention; See also Title and Abstract of Slater.

In view of the foregoing considerations, Applicant traverses the combination of Slater and System Sciences Proceedings since this combination would result in the Slater device being unsatisfactory for its intended purpose, and thus not in accordance with applicable M.P.E.P. requirements for establishing a *prima facie* case of obviousness under §103. More particularly, as noted above, System Sciences Proceedings states as a design objective no utilization of any standby modules (i.e., no utilization of back-up modules). In contrast to this design objective of System Sciences Proceedings, Slater is premised on the use of a primary data processor and a back-up data processor. Thus, the teaching of the secondary reference System Sciences Proceedings is directly opposed to the teaching of the primary reference to Slater, and therefore there is no motivation in the art to combine these references.

Applicant makes reference to M.P.E.P. §2143.01-(V) (The proposed modification cannot render the prior art unsatisfactory for its intended purpose). Additionally, the incongruous

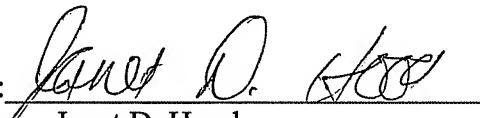
combination (Slater and System Sciences Proceedings) proposed by the Examiner also points out to the absence in the Office Communication of any “articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” See §2143.01 (IV). In view of the foregoing considerations, the combination of Slater and System Sciences Proceedings fails to constitute a *prima facie* combination for rejecting claims 16 and 18 and the §103 rejections should be withdrawn.

It is respectfully submitted that each of the claims pending in this application recite patentable subject matter, and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16(c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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